

Article - Natural Resources

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§3–903.

(a) (1) There is hereby created a body politic and corporate to be known as the “Northeast Maryland Waste Disposal Authority” which is constituted a public instrumentality of the State of Maryland. The exercise by the Authority of the powers conferred by this subtitle shall be deemed to be the performance of an essential public function.

(2) The Authority was organized and commenced its activities on October 21, 1980, when there were filed with the Secretary of State and the Department of Legislative Services certified copies of the resolutions of participation of at least two of the following four counties: Mayor and City Council of Baltimore, Baltimore County, Maryland, Anne Arundel County, Maryland, and Harford County, Maryland.

(3) Montgomery County, Maryland, also became a participating county in the Authority by filing certified copies of a resolution of participation with the Secretary of State and the Department of Legislative Services, whereupon Montgomery County, Maryland, had all of the rights, privileges, and powers under this subtitle that the other participating counties have or may have, including the power to participate in projects and to enter into contracts with the Authority, including the contracts relating to the Authority’s Southwest Resource Recovery Facility located in the City of Baltimore, in order to defray and provide for the Authority’s costs of acquiring, constructing, operating, or providing a project, including debt service requirements of the Authority relating to a project.

(4) Carroll County, Maryland, may also become a participating county in the Authority by the County Commissioners of Carroll County filing certified copies of a resolution of participation with the Secretary of State and the Department of Legislative Services, whereupon Carroll County, Maryland, shall have all of the rights, privileges, and powers under this subtitle that the other participating counties have or may have.

(5) Howard County, Maryland, may also become a participating county in the Authority by the County Council of Howard County filing certified copies of a resolution of participation with the Secretary of State and the Department of Legislative Services, whereupon Howard County, Maryland, shall have all of the rights, privileges, and powers under this subtitle that the other participating counties have or may have.

(6) Frederick County, Maryland, may also become a participating county in the Authority by the County Council of Frederick County filing certified copies of a resolution of participation with the Secretary of State and the Department of Legislative Services, whereupon Frederick County, Maryland, shall have all of the rights, privileges, and powers under this subtitle that the other participating counties have or may have.

(7) Cecil County, Maryland, may also become a participating county in the Authority by the Board of County Commissioners of Cecil County filing certified copies of a resolution of participation with the Secretary of State and the Department of Legislative Services, whereupon Cecil County, Maryland, shall have all of the rights, privileges, and powers under this subtitle that the other participating counties have or may have.

(8) Wicomico County, Maryland, may also become a participating county in the Authority by the County Council of Wicomico County filing certified copies of a resolution of participation with the Secretary of State and the Department of Legislative Services, whereupon Wicomico County, Maryland, shall have all of the rights, privileges, and powers under this subtitle that the other participating counties have or may have.

(9) Each resolution of participation contained:

(i) A declaration by the county of its intention and consent to participate in the activities of the Authority; and

(ii) Such provisions, if any, as the participating counties approved and required as being necessary or desirable for the Authority to be an organization described in § 501(c)(3) of the Internal Revenue Code.

(10) Each resolution of participation was presented by the chief executive officer of a county to the body exercising legislative powers of that county and was effective after adoption by such legislative body and approval by such chief executive officer.

(b) The Authority shall consist of one member from each of the participating counties and the director of the Maryland Environmental Service, ex officio. Each member from a participating county shall be appointed by the Governor from a list of at least three persons, which list has been submitted to the Governor by such participating county. Each such list shall be submitted to the Governor after approval by the chief executive officer of the county submitting such list. Members from a participating county shall serve terms of 4 years and shall continue in office until their successors have been appointed and qualified. A member from a participating county shall be eligible for reappointment. Each member of the Authority, before

entering upon his or her duties, shall take an oath to administer the duties of the office faithfully and impartially, and such oath shall be filed with the Secretary of State. The members of the Authority may be removed by the Governor for good cause or may be removed at the will of the Governor at any time in the event the Governor has previously received a resolution of that county which nominated such a member for appointment requesting that such member be removed.

(c) The Authority shall appoint, subject to the approval of the Governor, an executive director. The executive director may not be a member of the Authority. The Authority may also appoint, subject to the approval of the Governor, a general counsel, either on a full-time or a part-time basis as the Authority may determine, or it may otherwise provide for the provision of necessary legal services to the Authority. The general counsel shall not be a member of the Authority. Both the executive director and the general counsel shall serve at the pleasure of the Authority, and shall receive such compensation as may be determined by the Authority.

(d) The executive director shall keep a record of the proceedings of the Authority and shall be custodian of all books, documents, and papers filed with the Authority and of the minute book or journal of the Authority and of its official seal. The executive director may cause copies to be made of all minutes and other records and documents of the Authority and may give certificates under the official seal of the Authority to the effect that such copies are true copies, and all persons dealing with the Authority may rely upon such certificates. The records and documents of the Authority shall be considered public records subject to reasonable inspection. The executive director shall, subject to the supervision and direction of the Authority, be the chief administrative officer of the Authority.

(e) The general counsel, if one is appointed, shall be the legal advisor to the Authority. He shall, when directed by the Authority, represent the Authority in judicial or other proceedings.

(f) A majority of the members of the Authority shall constitute a quorum and the affirmative vote of a majority of the members present at a meeting of the Authority having a quorum present shall be necessary for any action taken by the Authority. The director of the Maryland Environmental Service is a voting member of the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority as aforesaid. Any action taken by the Authority under the provisions of this subtitle may be authorized by resolution at any regular or special meeting. Each such resolution, other than resolutions promulgating rules and regulations, shall take effect immediately and need not be published or posted. Rules and regulations shall be promulgated under the provisions of the Administrative Procedure Act, except

when necessary for the immediate preservation of the public health and safety and except for emergency provisions required to protect projects of the Authority.

(g) Each member of the Authority, the executive director and such employees as may be designated by the Authority, shall, upon entering the performance of their duties, be covered by a surety bond in accordance with the provisions of Title 9, Subtitle 17 of the State Government Article.

(h) The members of the Authority shall receive no compensation for the performance of their duties hereunder, but each such member shall be paid his necessary expenses incurred while engaged in the performance of such duties.

(i) The participating counties may grant, loan, or otherwise transfer to the Authority, and the Authority may accept, from time to time such money, property or other assets as may be necessary or desirable to enable the Authority to initiate its operations or those of any project or to carry out any of its corporate purposes.

(j) The staff of the Authority shall consist of such employees as the Authority may determine to be necessary to carry out the duties of the Authority. The executive director shall appoint and remove the staff of the Authority in accordance with the provisions and restrictions of a "merit system" to be developed by the Authority.

(k) (1) Whenever the Authority shall undertake to provide service to or within any participating county, such county shall have the option (which option must be exercised prior to the effectiveness of such undertaking) of:

(i) Designating those employees who, at the time of the transfer, were engaged primarily in the rendering of such service, whereupon the Authority shall be responsible for the continuation of such employees with all rights and privileges and equivalent benefits that such employees theretofore enjoyed; or

(ii) Not certifying to the Authority any employees formerly engaged in providing the "take-over" services, but continuing such employees in the county's employment.

(2) In the event that any employee of a county so certified to the Authority does not desire to be transferred to the Authority, such employee shall be given first priority in the filling of any vacancy for which he or she is qualified as determined by the head of such county's merit system. In the event there are no vacancies, such employee shall be placed on the reemployment list and shall be given first preference in the filling of any position for which such person is qualified.

(l) If the Authority determines that the provision of pension benefits for its employees cannot be effected practicably by means of the State Retirement System, the Authority shall be empowered to provide a pension benefit for employees upon their retirement on account of age, service, or disability and shall have the right to contract with an insurance company or other appropriate body to provide such pension benefits or by resolution to establish a retirement system to be operated on an actuarial basis under the applicable laws of the State of Maryland. Any employee of the State of Maryland or any subdivision who is employed by the Authority shall have the right to transfer to the pension system of the Authority and receive credit in the Authority's system for the service in the system from which such employee transferred contingent upon a transfer of the pension reserve applicable to such employee (employee and employer share) as certified by the actuary of the transferee system. With respect to employees initially transferred from any subdivision to the Authority, such employee shall elect within 6 months of said date of transfer whether to transfer his pension membership.

(m) The Authority shall by regulation establish the boundary of the Northeast Maryland waste disposal region. The boundary of the waste disposal region may include all or any part of the area within the boundaries of the participating counties. The director of the Maryland Environmental Service shall designate the Northeast Maryland waste disposal region as a solid waste disposal service region as provided in § 3-106 of this title.

(n) (1) Upon designation of the Northeast Maryland waste disposal region as a service region, the Authority, and not the Maryland Environmental Service, shall prepare the five-year plan providing for solid waste disposal projects required in § 3-106 of this title, and provide for its adoption, approval and implementation in accordance with the provisions of that section. The acquisition or purchase of any waste disposal facility as a project which is in existence as of July 1, 1980, if it is to be acquired or purchased, shall be included in the five-year plan of the Authority as approved by each county under the provisions of § 3-106 of this title, as amended from time to time.

(2) The five-year plan may include provisions for the establishment and implementation of a regional system of service fees to be charged at public waste disposal facilities within the participating jurisdictions. The Authority, by agreement with a subdivision or person outside the boundaries of the service region, may establish various service fees for the disposal of waste generated within the service region consistent with the 5-year plan. The Secretary of the Environment shall supervise any pricing structure proposed for adoption in the five-year plan or subsequent amendments thereto, for reasonableness and consistency with county solid waste plans pursuant to Title 9 of the Environment Article.

(o) Upon adoption by the Authority of a five-year plan providing for solid waste disposal projects and approval of such plan by the affected county or counties or the General Assembly, as the case may be, service districts shall be established within the Northeast Maryland waste disposal region in the manner and following the schedule set forth in the five-year plan providing for solid waste disposal projects. Within each service district in the Northeast Maryland waste disposal region, the Authority, and not the Maryland Environmental Service, is responsible for the disposal of solid wastes (including any wastewater treatment residue) as set forth in the five-year plan providing for solid waste disposal projects. Within the service district, no subdivision or person may dispose of solid wastes except through projects of the Authority or of a subdivision or person designated by the five-year plan or under reasonable conditions the Authority stipulates; provided however, that it is not intended by this section that the Authority, in the absence of an agreement to do so, be required to assume responsibility over any wastewater treatment activity or project or over any existing solid waste activity or project of any person or subdivision. Nothing contained in this subtitle shall affect the power of the Secretary of the Environment, as set forth in § 3-109 of this title, to direct the Maryland Environmental Service to undertake any of the actions authorized therein.

(p) Notwithstanding any other provision of this subtitle, all general funds appropriated to the Maryland Environmental Service to prepare the five-year plan providing for solid waste disposal projects in the participating counties as provided in § 3-106 of this title or to provide for its adoption, approval and implementation shall be transferred to the Authority for application by the Authority to such purposes.

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